

00018 RF06

DUE DATE

ACTION



Department of Energy

ROCKY FLATS PROJECT OFFICE
12101 AIRPORT WAY, UNIT A
BROOMFIELD, COLORADO 80021-2583

MAY 22 2006

06-DOE-00037

[illegible]

Mr. Dennis E. Ellis, Executive Director
Colorado Department of Public Health and Environment
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530

Dear Mr. Ellis:

Enclosed for your signature is the Environmental Covenant for the Rocky Flats Present

Land Fill. I have already signed the document. Please contact me with any questions at

(303) 966-2025.

Sincerely,

Fraser R. Lockhart

Fraser R. Lockhart
Manager

Enclosure

cc w/Encl.:
S. Miller, DOE-GC
S. Surovchak, LM, RFPO
N. Tour, K-H
M. Aguilar, USEPA
C. Spreng, CDPHE
Administrative Record

COR. CONTROL	X	X
ADMIN. RECORD	X	X

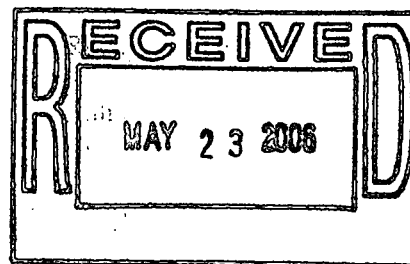
Reviewed for Addressee
Corres. Control RFP

5/23/06 *by*
Date By

Ref. Ltr. #

DOE ORDER #

5400.1



ADMIN RECORD

BZ-A-000943



Department of Energy

ROCKY FLATS PROJECT OFFICE
12101 AIRPORT WAY, UNIT A
BROOMFIELD, COLORADO 80021-2583

MAY 22 2006


06-DOE-00037

Mr. Dennis E. Ellis, Executive Director
Colorado Department of Public Health and Environment
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530

Dear Mr. Ellis:

Enclosed for your signature is the Environmental Covenant for the Rocky Flats Present
Land Fill. I have already signed the document. Please contact me with any questions at
(303) 966-2025.

Sincerely,


Frazer R. Lockhart
Manager

Enclosure

cc w/Encl.:
S. Miller, DOE-GC
S. Surovchak, LM, RFPO
N. Tour, K-H
M. Aguilar, USEPA
C. Spreng, CDPHE
Administrative Record

This property is subject to an Environmental Covenant held by the Colorado Department of Public Health and Environment pursuant to section 25-15-321, C.R.S.

ENVIRONMENTAL COVENANT

This Environmental Covenant is entered into this 22nd day of May, 2006, by the United States of America, acting through the United States Department of Energy ("DOE"), and the Hazardous Materials and Waste Management Division of the Colorado Department of Public Health and the Environment ("the Department"), pursuant to § 25-15-320 of the Colorado Hazardous Waste Act, § 25-15-101, C.R.S. ("CHWA"). The Department's address is 4300 Cherry Creek Drive South, Denver, Colorado 80246-1530.

WHEREAS, the United States owns, and DOE has administrative jurisdiction over, certain property commonly referred to as the Rocky Flats Environmental Technology Site ("RFETS") or Rocky Flats, located at 10808 Highway 93, Golden, Colorado, more particularly described in Attachment A, attached hereto and incorporated herein by reference as though fully set forth; and

WHEREAS, there exists on Rocky Flats a hazardous waste landfill commonly known as the Present Landfill. The Present Landfill, together with certain adjoining lands and engineered structures, is hereinafter referred to as "the Property", and is situated as shown in Attachment A; and

WHEREAS, pursuant to the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq. ("RCRA"), and CHWA, Rocky Flats is subject to closure, post-closure and corrective action requirements; and

WHEREAS, pursuant to the Rocky Flats Cleanup Agreement (Federal Facility Agreement and Consent Order, CERCLA VIII-96-21, RCRA (3008(h)) VIII-96-01, State of Colorado Docket #96-07-19-01, as amended) ("RFCA"), the Property is the subject of enforcement and remedial action pursuant to CHWA and RCRA, and the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601, et seq. ("CERCLA"); and

WHEREAS, the Present Landfill was used for the disposal of asbestos-containing waste material; and

WHEREAS, the purpose of this Covenant is to ensure protection of human health and the environment by preventing intrusion into the Present Landfill or damage to the various engineered structures on the Property, and preventing exposure to hazardous wastes. A description of the remedy for the Present Landfill can be found in the "Final Interim

Measure/Interim Remedial Action for IHSS 114 and RCRA Closure of the RFETS Present Landfill" dated August 2004 (as amended May 15, 2006), which may be found in the CERCLA Administrative Record for RFETS; and

WHEREAS, DOE has placed in the administrative record required under 42 U.S.C. § 9613(k) for the Rocky Flats Site, and filed with the Department and the Jefferson County Planning and Zoning Department a survey plat and record of the wastes that have been disposed in the Present Landfill, as required by 6 CCR 1007-3 § 265.119(b)(1)(iii); and

WHEREAS, the United States, acting by and through the DOE, is prepared to subject the Property to certain covenants and restrictions as provided in Article 15 of Title 25, Colorado Revised Statutes, which covenants and restrictions shall burden the Property and bind DOE and all parties having any right, title or interest in the Property, or any part thereof, their heirs, successors and assigns, and any persons using the land, as described herein, for the benefit of the Department.

NOW, THEREFORE, the United States, acting by and through the DOE pursuant to its authority under the Atomic Energy Act, 42 U.S.C. § 2011, et. seq., and CERCLA, hereby grants this Covenant to the Department, and declares that the Property as described in Attachment A shall hereinafter be bound by, held, sold, and conveyed subject to the following requirements set forth in paragraphs 1 through 11, below, which shall run with the Property in perpetuity and be binding on DOE and all parties having any right, title or interest in the Property, or any part thereof, their heirs, successors and assigns, and any persons using the land, as described herein. As used in this Covenant, the term OWNER means the current owner of the Property, as the term owner is defined in § 25-15-101(12.5), C.R.S.

1) Use restrictions

- a) Activities that may damage or impair the proper functioning of the Present Landfill cap and runoff controls, the passive seep intercept and treatment system, the groundwater monitoring wells or the surveyed benchmarks are prohibited. The Present Landfill cap and runoff controls, the passive seep intercept and treatment system, the groundwater monitoring wells, and the surveyed benchmarks are depicted on Attachment A.
- b) Digging, drilling, tilling, grading, excavation, construction of any sort (including construction of any structures, paths, trails or roads), and vehicular traffic are prohibited on the Property.
- c) Drilling for or pumping groundwater is prohibited on the Property.
- d) The restrictions in (a) – (c) above do not apply to response actions authorized pursuant to the RFCA, including monitoring and maintenance activities.


- 2) Modifications and Termination This Covenant runs with the land and is perpetual, unless modified or terminated pursuant to this paragraph. OWNER may request that the Department approve a modification or termination of the Covenant. The request shall contain information showing that the proposed modification or termination shall, if implemented, ensure protection of human health and the environment. The Department shall review any submitted information, and may request additional information. If the Department determines that the proposal to modify or terminate the Covenant will ensure protection of human health and the environment, it shall approve the proposal. No modification or termination of this Covenant shall be effective unless the Department has approved such modification or termination in writing. Any approved modification or termination shall be recorded as required in § 25-15-321(3). Information to support a request for modification or termination may include one or more of the following:
- a) a proposal to perform additional remedial work;
 - b) new information regarding the risks posed by the residual contamination;
 - c) information demonstrating that residual contamination has diminished;
 - d) information demonstrating that an engineered feature or structure is no longer necessary;
 - e) information demonstrating that the proposed modification would not adversely impact the remedy and is protective of human health and the environment; and
 - f) other appropriate supporting information.
- 3) Conveyances OWNER shall notify the Department at least fifteen (15) days in advance of any proposed grant, transfer or conveyance of any interest in any or all of the Property.
- 4) Notice to Lessees OWNER agrees to incorporate either in full or by reference the restrictions of this Covenant in any leases, licenses, or other instruments granting a right to use the Property.
- 5) Notification for proposed construction and land use OWNER shall notify the Department simultaneously when submitting any application to a local government for a building permit or change in land use.
- 6) Inspections The Department shall have the right of entry to the Property at reasonable times with prior notice for the purpose of determining compliance with the terms of this Covenant. Nothing in this Covenant shall impair any other authority the Department may otherwise have to enter and inspect the Property.
- 7) No Liability The Department does not acquire any liability under State law by virtue of accepting this Covenant.
- 8) Enforcement This Covenant may be enforced as provided in § 25-15-322, C.R.S., consistent with state and federal laws.

- 9) Owner's Compliance Certification OWNER shall submit an annual Report to the Department, on the anniversary of the date this Covenant was signed by DOE, detailing OWNER's compliance, and any lack of compliance, with the terms of this Covenant.
- 10) Notices Any document or communication required under this Covenant shall be sent or directed to:

Hazardous Waste Corrective Action Unit Leader
Hazardous Materials and Waste Management Leader
Colorado Department of Public Health and the Environment
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530

U. S. Department of Energy has caused this instrument to be executed this 22nd day of May, 2006.

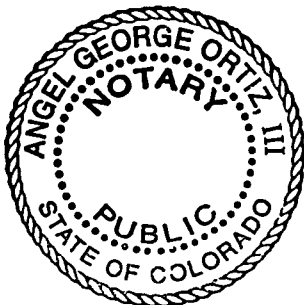
U. S. Department of Energy

By: 

Title: Rocky Flats Environmental Technology Site Manager

STATE OF COLORADO)
) ss:
COUNTY OF BROOMFIELD)

The foregoing instrument was acknowledged before me this 22 day of MAY, 2006 by Frazer Lockhart on behalf of the U. S. Department of Energy




Notary Public ANGEL G. ORTIZ, III

[Redacted Address]
Address

My commission expires: _____

Accepted by the Colorado Department of Public Health and Environment this ____ day of

_____, _____.

By: _____

Title: _____

STATE OF _____)
) ss:
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, _____ by _____ on behalf of the Colorado Department of Public Health and Environment.

Notary Public

Address

My commission expires: _____

Attachment A

Description of Present Landfill Property

6/3

